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MAY 13 2004

OFFICE OF PETITIONS

#15

**Polster, Lieder, Woodruff, & Lucchesi, L.C.**

**12412 Powerscourt Drive, Suite 200**

**St. Louis, Missouri 63131-3615**

**Telephone: (314) 238-2400 Facsimile: (314) 238-2401**

**Date:** May 11, 2004

**To:** Mail Stop Petition

**Company:** U.S. Patent and Trademark Office

**Fax No.:** 703-872-9306

**From:** J. Philip Polster, Esq.

**No. of Pages, Including Cover:** 22

**Re:** KHAB 8076 - SN 09/868,075

**Comments:**

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**CONFIRMING COPY TO BE MAILED:** YES ☐ NO ☒

**IF YOU HAVE ANY PROBLEMS WITH THIS TRANSMISSION, PLEASE CONTACT THE SENDER AT (314) 238-2400**

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Bakulesh Khamar	GROUP ART UNIT: 1614
SERIAL NO.: 09/868,075	EXAMINER: Zohreh A. Fay
FILED: 09/18/2001	DOCKET NO.: KHAB 8076
	CONFIRMATION NO.: 5439
FOR: THE PROCESS FOR MANUFACTURING FORMULATION OF TOPICAL BETA BLOCKERS WITH IMPROVED EFFICACY	

OFFICIAL

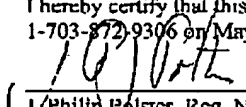
St. Louis, Missouri  
May 11, 2004Mail Stop Petition  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNAVOIDABLY UNDER 37 CFR §1.137(a)**

The above-identified application became abandoned for failure to file a timely and proper reply to an Office Action dated August 13, 2003. A copy of the Notice of Abandonment accompanies this Petition.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

Please charge the Petition Fee of \$55.00 (Small entity) to our deposit account 162201.

I hereby certify that this correspondence is being fax transmitted to the Commissioner for Patents, at Fax Number 1-703-872-9306 on May 11, 2004.

  
J. Philip Polster, Reg. No. 24,739

Date: 5/11/04

An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable follows.

Applicant's attorney received the accompanying Notice of Abandonment on April 17, 2004. The Notice indicates that applicant failed to timely file a proper reply to an Office letter mailed on 13 August 2003. Applicant's attorney, J. Philip Polster, hereby attests that no such Office letter was received by his office.

It is noted that the Notice of Abandonment is directed to the state of "MS" (Mississippi), whereas his office in St. Louis is in the state of Missouri (MO). It is postulated that the Office Action was misdirected to Mississippi. The extended ZIP code (63141-8750) is accurate.

In August 2003, our firm's docketing system was as follows. All incoming mail from the Patent and Trademark Office was opened and immediately entered into our firm's redundant docketing system by one of our two patent paralegals, John Barrette or Christine Schill. The system at that time included entry into a dedicated patent docketing system provided by Computer Packages, Inc., into a Microsoft Access database, and manual into a book of due dates. The correspondence from the Patent and Trademark Office is placed with the physical docket folder and given to the attorney in charge of the case. I am the attorney in charge of this case. It has been a reliable method of entering due dates, and I am not aware of any instance in the last five years in which an Office Action from the Patent and Trademark Office was received but not docketed.

There is no indication in any of the docketing systems or in the physical docket folder that any action was received from the Patent and Trademark Office between the

April 25, 2003 response I filed in response to the Office Action dated March 25, 2003 and the Notice of Abandonment dated April 5, 2004 and received April 17, 2004. A copy of the five pages of our manual docket sheet showing matters due in November 2003 accompanies this petition, with identifying numbers redacted to protect the confidentiality of our clients. It will be seen that no entry exists for our client identifier KHAB or for the docket number 8076. Likewise, copies of pages 8-10 of a printout of due dates in the Access system from November 13 through November 14, 2003 shows no entry for this matter. Finally, a printout of the Computer Packages, Inc. entry for KHAB 8076 shows no entry for an August 13, 2003 Office Action.

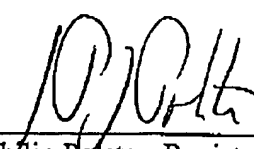
On December 26, 2003, our firm moved its office to the address given below. That move, however, should not have had any effect on delivery of the action in August 2003. A request to associate this case with our customer number 1688 accompanies this petition. Please note our new address, telephone number, and fax number.

On March 29, 2004, Examiner Zohreh A. Fay called applicant's attorney to inquire whether applicant had filed a response to the action dated August 13, 2003. I looked in the physical docket folder and in our computer docketing system and found no sign of receiving such an action. The examiner indicated that the application was abandoned and declined to forward a copy of the Office Action. Therefore, it is impossible to submit any response with this petition.

I have inquired of Applicant to determine whether he received the action referred to in the Notice of Abandonment. In response to my inquiry, he has confirmed that he also has not received the alleged Office Action dated August 13, 2003. This petition is being filed promptly following that confirmation.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment under 37 CFR §1.16 and §1.17 which may be required to Deposit Account No. 16-2201. *Duplicates of this sheet are enclosed.*

Date: May 11, 2004

  
J. Philip Polster, Registration No. 24,739  
Polster, Lieder, Woodruff & Lucchesi, L.C.  
Customer Number: 001688  
12412 Powerscourt Drive  
St. Louis, Missouri 63131-3615  
Telephone: (314) 238-2400  
Facsimile: (314) 238-2401

**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT: Bakulesh Khamar	GROUP ART UNIT: 1614
SERIAL NO.: 09/868,075	EXAMINER: Zohreh A. Fay
FILED: 09/18/2001	DOCKET NO.: KHAB 8076
	CONFIRMATION NO.: 5439
FOR: THE PROCESS FOR MANUFACTURING FORMULATION OF TOPICAL BETA BLOCKERS WITH IMPROVED EFFICACY	

St. Louis, Missouri  
May 11, 2004

Mail Stop Petition  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

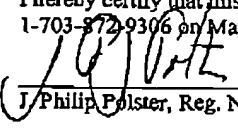
**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNAVOIDABLY UNDER 37 CFR §1.137(a)**

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Please charge the Petition Fee of \$55.00 (Small entity) to our deposit account 162201.

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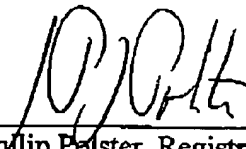
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Date: May 11, 2004

  
J. Philip Polster, Registration No. 24,739  
Polster, Lieder, Woodruff & Lucchesi, L.C.  
Customer Number: 001688  
12412 Powerscourt Drive  
St. Louis, Missouri 63131-3615  
Telephone: (314) 238-2400  
Facsimile: (314) 238-2401



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,075	09/18/2001	Bakulesh Mafsthal Khamar	KHAB 8076	5439

7590

04/05/2004

J Philip Polster  
 Polster Leider Woodruff & Lucchesi  
 763 South Ballas Road  
 St Louis Missouri, MS 63141-8750

POLSTER, LINCOLN  
 WOODRUFF & LUCCHESI

APR 1 2004

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EXAMINER

FAY, ZOHREH A

ART UNIT

PAPER NUMBER

1614

DATE MAILED: 04/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Abandonment**

Application No.

09/868,075

Applicant(s)

KHAMAR, BAKULESH  
MAFATLAL

Examiner

Zohreh Fay

Art Unit

1614

**- The MAILING DATE of this communication appears on the cover sheet with the correspondence address-**

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 13 August 2003.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_, but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$ \_\_\_\_\_ is insufficient. A balance of \$ \_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$ \_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$ \_\_\_\_\_.
    - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

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USPTO  
AUG 12 2003  
Zohreh Fay

*Zohreh Fay*

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

U.S. Patent and Trademark Office  
PTOL-1432 (Rev. 04-01)

Notice of Abandonment

Part of Paper No. 14

<b>Interview Summary</b>	Application No.	Applicant(s)	
	09/868,075	KHAMAR, BAKULESH MAFATLAL	
	Examiner	Art Unit	
	Zohreh Fay	1614	

All participants (applicant, applicant's representative, PTO personnel):

(1) Zohreh Fay. (3) \_\_\_\_\_

(2) J. Phillip Polster. (4) \_\_\_\_\_

Date of Interview: 29 March 2004.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
If Yes, brief description: \_\_\_\_\_

Claim(s) discussed: None.

Identification of prior art discussed: None.


Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: A telephone call was made to inquire if a response was filed to the office action of August 13, 2003. Applicant indicated that he did not receive the office action.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

  
Examiner's signature, if required

NOV 2003

Attorney	Docket	
WGB	8058	MEPC
POC	8410	CEPL
AKA	8715	COOK
PBP	5738	CME 21
PBP/PPL	8300	TRE PC
EAB	10165	TIMK C
<del>MEB/PPL</del>	<del>8651</del>	<del>KED DE</del>
WGB/PPL	8274	ALVY P
NEW/EAB	8335	TIMK R
MEB	8302	TIMK P
JPS	8350	MASM
WGB	7844	RDGM
EAB	8488	LAGE
JPS	7775	GRZFB
JPS	7775	GRZFB
WBC	7524	MARI
PBP	8136	DTIL
JTM	8404	CHDI
EAB	8348	TIMK
JPP	8384	MCDW
EAB	7810	NDOF
JPS	8244	SOFT
MEB	7775	HE 8

Date	
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15-8-03

**014**

November 2003

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8023	PHAR
APL 8023	PHAR
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<del>APL 794</del>	<del>HASH</del>
APL 8062	NOST
B 8065	TIMK
S 8063	ESP
B 8064	TIMK
B 8060	NEY
B 8580	TIMK
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B 8568	HE 1
B 8621	TMM
B 8618	KOW
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INDN 8575	GEHA
B 8670	TIMK
EW 7897	SIEV
P 7998	STRM
AB 8155	TIMK
JUN 8604	DES
WGB 8679	CONJ
JPS 8116	MISI
DENWEB 8266	ODOR
WGS 6666	RDIH

November 2003

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27	✓	
9	✓	

03

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WGB	TM	BREMER
KPR	TM	UNIGROL
CPR	TM	SPECTER
SPP	TM	GILBERT
IPR	TM	DEACU
AB	TM	CONALI
IK	5180	SCHROED
M	6943	BRAYNE
POP	TM	BROWNII
ILL	6771	YOUNG
KAB	TM	NATURAL
WHT	TM	C-ELEX
WH	TM	ANYTIL
WH	TM	GARDEN
UHT	7744	SUNOQUIS
JHT	TM	INTER-1
WHT	TM	INTER-1
WHT	7226	FICKER
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WHT	7278	DARKI
WHT	TM	SPORAN
WHT	TM	TRUE
WHT	TM	4014 82
WHT	TM	GRACE
WHT	7539	SCHMID
WHT	7540	ROHO PE

November 2003

MON	TU	EFCD
WED	TH	GORN
FR	TH	THRE
006B	TH	BUEN
400UR	5832	Sidd
400MAM	5833	Eagle
400TH	4408	HOIS
400M	5488	Kal
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00L	TH	SORE
0605	TH	THRE
00L	TH	SURE
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Docket Date	Actual Due Date	Atty	Matter	Descrj
11/12/2003	11/12/2003	AKA	DN 8715	COOK
11/12/2003	11/12/2004	PPL	DN 5884A	Gibers
11/12/2003	02/12/2004	LLL/PPL	DN 4499	FLCN
11/12/2003	11/12/2003	DEW	DN 7897	SIEV 4
11/12/2003	11/12/2003	PBP	DN 5738	CME 2
11/12/2003	02/12/2004	WGB/SDS	TM	WYNS
11/12/2003	11/12/2003	EAB	DN 8488	LAGE
11/12/2003	02/12/2004	EAB/SDS	TM	BUSTJ
11/12/2003	11/12/2003	NWR	DN 8479	ROHO
11/12/2003	11/12/2003	JPS	DN 8456	SHEA
11/12/2003	11/12/2003	JPS	DN 8148	TMK
11/12/2003	11/12/2003	JPS	DN 8444	DENN

Docket Date	Actual Due Date	Atty	Matter	Descr
11/13/2003	05/13/2004	RWH	TM	TRUE
11/13/2003	02/13/2004	JTM	DN 8246	BASE
11/13/2003	11/13/2003	NWR	DN 8234	KRAG
11/13/2003	11/13/2004	MDM/PPL	TM	HARV
11/13/2003	11/13/2003	EAB/DEW	DN 8400	TIMK
11/13/2003	02/13/2004	MDM/PPL	DN 5829	Petrofs
11/13/2003	02/13/2004	PBP/PPL	DN 8300	TRI PC
11/13/2003	11/13/2003	NDN	DN 8455	EMER
11/13/2003	11/13/2003	RWH	DN 8095	DEMA
11/14/2003	05/14/2004	JPS/PPL	DN 6345	Bailey
11/14/2003	02/14/2004	WBC	DN 8248	ECTI 3
11/14/2003	02/14/2004	JPS/PPL	DN 5703	Steiner

Docket Date	Actual Due Date	Atty	Matter	Descr
11/14/2003	11/14/2003	PBP	DN 8333	ENOB
11/14/2003	02/14/2004	NWR	DN 8619	HENJ
11/14/2003	11/14/2004	MAM/PPL	DN 7226	Eckerd
11/14/2003	11/14/2003	WGB	DN 6160	ROHI
11/14/2003	11/14/2003	JJM/NDN	DN 8525	GEHA
11/14/2003	11/14/2003	AKA	DN 6459	COOK
11/14/2003	11/14/2003	JJM/NDN	DN 8575	GEHA
11/15/2003	05/15/2004	RWH	TM	ICAMS
11/15/2003	02/15/2004	WGB	TM	QUETI
11/15/2003	11/15/2003	JJM	DN 8739	TATR I
11/15/2003	11/15/2004	RWH	TM	INTER
11/15/2003	05/15/2004	EAB/SDS	TM	LIFE ST

### Country Application

**Tuesday, May 11, 2004**

**Case Number: 08076**

Country: US

**SubCase:**

**Docket Number: 8076**

**Client:** KHAMAR, BAKULESH M

**United States of America**

**Application Title: THE PROCESS FOR MANUFACTURING FORMULATION OF TOPICAL BETA BLOCKERSWITH IMPROVED EFFICACY**

**Case Type: ORD**

**Application Status:** Pending

**Application Number: 09/868075**

**Filing Date:** 18-Sep-2001

**Publication Number:****Publication Date:**

**Patent Number:**

**Issue Date:**

Parent/PCT Number: PCT/IB99/0037

Parent/PCT Date : 04-Mar-1999

**Parent Issue Number:****Parent Issue Date :**

**Agent:**

**Expiration Date:**

PTA: 0

**Agent Reference No.:****Tax Schedule: LE****Confirmation #:**

## Remarks:

Old Docket Number: 8076

File By: 10/5/2001

## List Of Actions

Action(s) Due	Due Date		Action Taken
RESPONSE TO NOTIFICATION OF A	22-Oct-2001	Due Date	18-Sep-2001
INFORMATION DISCLOSURE STATE	08-Dec-2001	Due Date	08-Apr-2002
RESPONSE TO NOT TO FILE MISSIN	30-Dec-2001	Due Date	18-Dec-2001
Due Date - Election	24-Apr-2003	Due Date	01-May-2003
Perition to Revive Application	05-Jun-2004	Due Date	

**User ID:** PatMarks

**Date Created:** 05-Jul-2001

**Last Update: 10-May-2002**

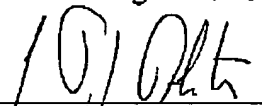
## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Bakulesh Khamar	GROUP ART UNIT: 1614
SERIAL NO.: 09/868,075	EXAMINER: Zohreh A. Fay
FILED: 09/18/2001	DOCKET NO.: KHAB 8076
	CONFIRMATION NO.: 5439
FOR: THE PROCESS FOR MANUFACTURING FORMULATION OF TOPICAL BETA BLOCKERS WITH IMPROVED EFFICACY	

## REQUEST TO ASSOCIATE CUSTOMER NUMBER WITH CASE

It is hereby requested that Customer Number 1688 be associated with this case. Please direct all future correspondence to Polster, Lieder, Woodruff & Lucchesi, L.C. at the address recorded for that customer number (and which is given below).

Date: MAY 11, 2004

  
(J. Philip Polster, Registration No. 24,739  
Polster, Lieder, Woodruff & Lucchesi, L.C.  
Customer Number: 001688  
12412 Powerscourt Drive  
St. Louis, Missouri 63131-3615  
Telephone: (314) 238-2400  
Facsimile: (314) 238-2401